

AUTUMN ELLIOTT SBN #230043
ANDREW BERK SBN #248386
DISABILITY RIGHTS CALIFORNIA
350 South Bixel Street, Suite 290
Los Angeles, CA 90017
Telephone: (213) 213-8000
Facsimile: (213) 213-8001
Autumn.Elliott@disabilityrightsca.org
Andrew.Berk@disabilityrightsca.org

DARA SCHUR SBN #98638
DISABILITY RIGHTS CALIFORNIA
1330 Broadway, Suite 500
Oakland, CA 94612
Telephone: (510) 267-1200
Facsimile: (510) 267-1201
Dara.Schur@disabilityrightsca.org

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Katie Bassilios,
Plaintiff,
vs.
City of Torrance, CA
Defendant.

Case No.: 14-CV-03059-AB (JEMx)
**PLAINTIFF'S STATEMENT OF
UNCONTROVERTED FACTS AND
CONCLUSIONS OF LAW**

Date Action Filed: April 21, 2014
Trial Date: November 10, 2015
Hearing Date: September 21, 2015
Time: 10:00 a.m.
Courtroom: 4
Date Action Filed: April 21, 2014
Judge: Hon. André Birotte Jr.

Pursuant to Central District of California Rule 56-1, Plaintiff, as the moving party on the motion for summary judgment referred to in the attached Notice, submits this “Statement of Uncontroverted Facts and Conclusions of Law” and proposed judgment.

UNCONTROVERTED FACTS

| Uncontroverted Facts | Evidentiary Support |
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| 1. The City updated its ADA transition plan approximately six years ago. | Deposition of Randall Sellers, 9:15-19 (attached to Declaration of Autumn Elliott as Exhibit F) |
| 2. The accessibility of on-street parking forms no part of the City’s ADA transition plan unless it is appurtenant to a City building. | Sellers Depo., 10:4-19, 25:17-26:11 (Exh. F) |
| 3. The curb and surrounding areas in front of Ms. Bassilios’s home at 321 Calle Miramar are in the City of Torrance. | Deposition of Craig Bilezerian as 30(b)(6) Witness, 147:18-23 (attached to Declaration of Autumn Elliott as Exhibit B) |
| 4. The City has the authority to change the markings of the curb on public streets under its control, including the authority to paint the curb blue. | Torrance Municipal Code § 61.6.15(e); Bilezerian 30(b)(6) Depo., 125:19-24 (Exh. B) |
| 5. The City conducts maintenance such as refreshing the paint along the curb in front of Ms. Bassilios’s home when it becomes faded or otherwise needs refreshing. | Bilezerian 30(b)(6) Depo., 125:19-24, 126:14-17 (Exh. B) |

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| 1 | 6. The City also has the authority to | Bilezerian 30(b)(6) Depo., 273:17 – 23 |
| 2 | install curb cuts or curb ramps along | (Exh. B) |
| 3 | Calle Miramar. | |
| 4 | 7. The City employs parking | Deposition of John Douglas Newman as |
| 5 | enforcement officers who | 30(b)(6) Witness, 25:23-25, 28:21-23, |
| 6 | monitor parking along areas | 30:6-8, 85:19-21, 54:18-20 (Attached to |
| 7 | under its control, including Calle | Declaration of Autumn Elliott as |
| 8 | Miramar. | Exhibit D) |
| 9 | 8. The City also has the authority to | Bilezerian 30(b)(6) Depo., 272:22 – 25 |
| 10 | post signs pertaining to parking in the | (Exh. B) |
| 11 | public right of way along Calle | |
| 12 | Miramar, including signs warning | |
| 13 | residents and visitors that their vehicles | |
| 14 | will be towed if they are parked on the | |
| 15 | street during street sweeping hours. | |
| 16 | 9. The City Traffic Engineer has the | Torrance Municipal Code § 61.6.1 |
| 17 | authority to designate that the stopping, | |
| 18 | standing, or parking of vehicles on any | |
| 19 | street is limited or prohibited. | |
| 20 | 10.As a general matter, the City of | Def. Response to Second Set of |
| 21 | Torrance maintains and controls the | Interrogatories, 9:26-27 (Attached to |
| 22 | roadway in front of Ms. Bassilios's | Declaration of Autumn Elliott as |
| 23 | home. | Exhibit EE) |
| 24 | 11.For example, the City has the | Bilezerian 30(b)(6) Depo., 274:7-11 |
| 25 | authority to reseal the asphalt on Calle | (Exh. B) |
| 26 | Miramar, and in fact completed a slurry | |
| 27 | seal project on Calle Miramar several | |
| 28 | years ago. | |

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| 1 | 12. Along Calle Miramar in front of | Bilezerian 30(b)(6) Depo., 270:9 – |
| 2 | Ms. Bassilios’s home, the City conducts | 272:3 (Exh. B) |
| 3 | maintenance tasks such as street | |
| 4 | sweeping each week, mowing of the | |
| 5 | center median of the street several times | |
| 6 | a month, irrigation repair, and tree | |
| 7 | trimming. | |
| 8 | 13. The City has the authority to post | Bilezerian 30(b)(6) Depo., 272:4 – 21 |
| 9 | traffic signs along Calle Miramar and | (Exh. B) |
| 10 | has done so. | |
| 11 | 14. The City also has the authority to | Bilezerian 30(b)(6) Depo., 273:5 – 16, |
| 12 | install and maintain fire hydrants and | 24-274:6 (Exh. B) |
| 13 | lane and crosswalk markings along | |
| 14 | Calle Miramar. | |
| 15 | 15. Plaintiff Katie Bassilios lives on | Declaration of Katie Bassilios at ¶ 2; |
| 16 | Calle Miramar. | Bilezerian 30(b)(6) Depo., 174:19-20 |
| 17 | | (Exh. B) |
| 18 | 16. Ms. Bassilios’s residence is | Bassilios Decl., ¶ 2; Bilezerian 30(6) |
| 19 | located in the City of Torrance. | Depo., 147:13 – 19 (Exh. B) |
| 20 | 17. Ms. Bassilios works as a | Bassilios Decl., ¶ 3 |
| 21 | behavioral therapist. | |
| 22 | 18. She uses her car to commute | Bassilios Decl., ¶ 5 |
| 23 | between her work and home, to visit | |
| 24 | friends and relatives, to obtain groceries | |
| 25 | and other necessities, and generally to | |
| 26 | access the community beyond her | |
| 27 | home. | |
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| 1 | 19.Ms. Bassilios has physical | Bassilios Decl., ¶ 6-14; Declaration of |
| 2 | impairments that substantially limit her | Dr. Sophia Chun at ¶19 |
| 3 | ability to walk. | |
| 4 | 20.Due to cerebral palsy and a pin in | Bassilios Decl., ¶ 7-14, 22; Dr. Chun |
| 5 | her foot, Ms. Bassilios has difficulty | Decl. ¶ 25, 26 |
| 6 | walking distances greater than 50 feet, | |
| 7 | walking up and down stairs, walking up | |
| 8 | and down sloped surfaces, and walking | |
| 9 | on uneven ground. | |
| 10 | 21.Ms. Bassilios has a disabled | Bassilios Decl., ¶ 4, Exhibits A and B to |
| 11 | parking placard issued by the State of | Bassilios Decl. |
| 12 | California. | |
| 13 | 22.Ms. Bassilios needs a parking | Bassilios Decl., ¶ 20, 22 |
| 14 | space for her car that is as close to her | |
| 15 | home as possible with minimal stairs, | |
| 16 | slope, or uneven ground. | |
| 17 | 23.Ms. Bassilios has an assigned | Bassilios Decl., ¶ 15 |
| 18 | garage space at the rear of her | |
| 19 | apartment building. | |
| 20 | 24.The only two ways Ms. Bassilios | Bassilios Decl., ¶ 15; Declaration of |
| 21 | can reach the garage from her front | Scott McBrayer at ¶ 15; Declaration of |
| 22 | door are (1) using a route that is nearly | Jeff Mastin at ¶ 38-43. |
| 23 | 100 feet long and includes a flight of | |
| 24 | stairs or (2) using a route that is over | |
| 25 | 240 feet long and includes a steep | |
| 26 | incline. | |
| 27 | 25.Ms. Bassilios cannot use the | Bassilios Decl., ¶ 15 |
| 28 | garage to park her car. | |

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| 1 | 26. Instead, Ms. Bassilios parks her | Bassilios Decl., ¶ 17 |
| 2 | car on the street in front of her home or | |
| 3 | in the surrounding neighborhood. | |
| 4 | 27. As a general matter, the City of | Bassilios Decl., ¶ 16 |
| 5 | Torrance permits the public to park on a | |
| 6 | first-come, first-served basis on the | |
| 7 | street in front of Ms. Bassilios's home | |
| 8 | and in the surrounding neighborhood. | |
| 9 | 28. The route from the closest street | McBrayer Decl., ¶ 13, 23; Mastin |
| 10 | parking area along the curb in front of | Decl., ¶ 36 and Exh. D to Mastin Decl. |
| 11 | Ms. Bassilios's home is approximately | |
| 12 | 50 feet long and is relatively level. | |
| 13 | 29. It has less distance to travel and | Deposition of Paul Bishop, 48:1-7 |
| 14 | fewer obstacles than other possible | (attached as Exhibit H to Declaration of |
| 15 | routes. | Autumn Elliott) |
| 16 | 30. When Ms. Bassilios is unable to | Bassilios Decl., ¶ 17; McBrayer Decl., |
| 17 | park there, she looks for parking | ¶ 6 |
| 18 | elsewhere along the street or in the | |
| 19 | neighborhood. | |
| 20 | 31. The paved area between the curb | McBrayer Decl., ¶ 19; Bilezerian |
| 21 | and the residences along Ms. Bassilios's | 30(b)(6) Depo., 107:2-7 (Exh. B); |
| 22 | street is narrow, sloped, uneven, and | Bishop Depo., 47:25-48:7, 72:15-73:13, |
| 23 | non-existent in places. | 74:4-18, 93:17-94:12 (Exh. H) |
| 24 | 32. When Ms. Bassilios cannot park | Bassilios Decl., ¶ 17-20 |
| 25 | in the space in front of her home and | |
| 26 | must park elsewhere along her street on | |
| 27 | in the neighborhood, she must walk a | |
| 28 | greater distance along a route that | |

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| 1 | includes sloped and uneven ground – a | |
| 2 | route that has, in the words of the City’s | |
| 3 | designated 30(b)(6) witness – “no safe | |
| 4 | place to walk.” | |
| 5 | 33.State law allows municipalities to | California Vehicle Code § 22511.7(a) |
| 6 | designate parking for the exclusive use | |
| 7 | of people with disabilities who have a | |
| 8 | disabled parking placard. | |
| 9 | 34.State law provides that when “a | California Vehicle Code § |
| 10 | local authority so designates a parking | 22511.7(b)(1) |
| 11 | space, it shall be indicated by blue paint | |
| 12 | on the curb or edge of the paved portion | |
| 13 | of the street adjacent to the space. In | |
| 14 | addition, the local authority shall post | |
| 15 | immediately adjacent to and visible | |
| 16 | from the space a sign consisting of a | |
| 17 | profile view of a wheelchair with | |
| 18 | occupant in white on a blue | |
| 19 | background.” | |
| 20 | 35.The Torrance Municipal Code | Torrance Municipal Code § 61.6.15(e) |
| 21 | authorizes the City’s Traffic Engineer | |
| 22 | to place curb markings to indicate | |
| 23 | parking or standing restrictions. Under | |
| 24 | the Municipal Code, blue curb markings | |
| 25 | “mean parking limited exclusively to | |
| 26 | the vehicles of physically handicapped | |
| 27 | persons displaying specified | |
| 28 | distinguishing license plates.” | |

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| 1 | 36.Katie Bassilios requested that the | Bassilios Decl., ¶ 24-27, Defendant |
| 2 | City designate a parking space for | Answer ¶ 2:8-10, ¶ 23:4-6, ¶ 26:28-2; |
| 3 | people with disabled parking placards | Def. Response to Requests for |
| 4 | in front of her home. | Admission, p. 22:18-19 23:3-5 (Exh. |
| 5 | | DD) |
| 6 | 37.The City understood that Ms. | Def. Response to Requests for |
| 7 | Bassilios was requesting a designated | Admission, p. 24:12-13 (Exh. DD); |
| 8 | parking space for people with disabled | Bilezerian 30(b)(6) Depo., 103:2-4 |
| 9 | parking placards in front of her home | (Exh. C); Semaan Depo., 41-42:25-2 |
| 10 | due to a disability. | (Exh. E) |
| 11 | 38.The City did not request Ms. | Def. Response to Requests for |
| 12 | Bassilios to verify the existence of her | Admission, 6:11-13 (Exh. DD) |
| 13 | disability and, for the purposes of her | |
| 14 | request for a blue curb on-street parking | |
| 15 | space, assumed she had a qualified | |
| 16 | disability. | |
| 17 | 39.The City likewise did not request | Def. Response to Requests for |
| 18 | Ms. Bassilios to verify her need for a | Admission, 6-7:27-2 (Exh. DD) |
| 19 | blue curb on-street parking space and | |
| 20 | assumed she would benefit if the City | |
| 21 | granted her request. | |
| 22 | 40.The City denied Katie Bassilios's | Def. Answer, ¶ 25:4-15, ¶ 33:13-14, ¶ |
| 23 | request for a blue curb on-street parking | 40:27-1 (Exh. J, Dkt. 13) |
| 24 | space. | |
| 25 | 41. The City told Ms. Bassilios, "We | Bassilios Decl., ¶ 26 |
| 26 | don't do that." | |
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| 1 | 42.The City told also Ms. Bassilios, | Bassilios Decl., ¶ 26 |
| 2 | “If we do it for you, we’ll have to do it | |
| 3 | for everyone.” | |
| 4 | 43.Craig Bilezerian is the City of | Bilezerian 30(6) Depo., 42:5 – 7, 50:21 |
| 5 | Torrance’s Deputy Public Works | – 24 (Exh. B) |
| 6 | Director and City Engineer. | |
| 7 | 44.On July 25, 2012, Craig | Declaration of Suzi Bernais at ¶ 8, 9 |
| 8 | Bilezerian told Suzi Bernais, Intake and | |
| 9 | Referral Advocate for Disability Rights | |
| 10 | California that the City of Torrance | |
| 11 | does not provide any blue striping or | |
| 12 | handicapped parking designation on any | |
| 13 | of its streets. | |
| 14 | 45.In considering Ms. Bassilios’s | Bilezerian Expert Depo., 37:15-24, |
| 15 | reasonable accommodation request, the | 156:10-162:17 (Exh. G) |
| 16 | City took into account the public’s | |
| 17 | perception of creating a parking space | |
| 18 | for one individual. | |
| 19 | 46.After Ms. Bassilios’s attorney | Declaration of Andrew Berk at ¶ 3-7; |
| 20 | contacted the City about her request that | August 20, 2012 Letter from John |
| 21 | the City designate a parking space in | Fellows to Andrew Berk, at CITY- |
| 22 | front of her home for people with | 000156, attached as Exh. A to |
| 23 | disabilities, the City again denied Ms. | Declaration of Andrew Berk |
| 24 | Bassilios’s request, stating, “the City’s | |
| 25 | Public Works Department has | |
| 26 | consistently refused to blue curb on- | |
| 27 | street parking. This is because the | |
| 28 | Americans with Disabilities Act | |

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| 1 | requires a loading zone of at least 5 feet | |
| 2 | adjacent to an accessible parking space. | |
| 3 | In the case of on-street parking parallel | |
| 4 | to a curb, the additional 5 feet would | |
| 5 | cause the accessible parking space to | |
| 6 | protrude into a travel lane.” | |
| 7 | 47. There are no technical access | Bilezerian Expert Depo, 60:1-4, 69: 23- |
| 8 | standards that apply to on-street | 25, 90:8-11, 97:3-6. (Exh. G); Bishop |
| 9 | parking. | Depo, 43:13-20, 57:23-24, 108:8-10 |
| 10 | | (Exh. H); Mastin Decl. ¶ 47-51 |
| 11 | 48. There are no California state | Bishop Depo., 106:22-107:5 (Exh. H); |
| 12 | accessibility standards that apply to the | Mastin Decl. ¶ 47-51 |
| 13 | street in front of Ms. Bassilios’s home. | |
| 14 | 49. Craig Bilezerian was one of the | Bilezerian 30(6) Depo., 2106:9 – 12 |
| 15 | three City officials to make the decision | (Exh. B) |
| 16 | to deny Katie Bassilios’s | |
| 17 | accommodation request. | |
| 18 | 50. He is also the person designated | Bilezerian 30(6) Depo., ¶ 51:9 – 12 |
| 19 | by the City to handle all similar | (Exh. B) |
| 20 | requests. | |
| 21 | 51. As late as June 22, 2015, Craig | Bilezerian 30(b)(6) Decl., 236:6-238:2 |
| 22 | Bilezerian had no idea what the term | (Exh. B) |
| 23 | “undue burden” meant. | |
| 24 | 52. As late as June 22, 2015, Craig | Bilezerian 30(b)(6) Decl., 238:4-239:13 |
| 25 | Bilezerian had no idea what the term | (Exh. B) |
| 26 | “fundamental alteration” meant. | |
| 27 | 53. Nor could Mr. Bilezerian say | Bilezerian 30(b)(6) Decl., 238:4- |
| 28 | whether “fundamental alteration” was | 239:13, (Exh. B) |

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| 1 | even part of the City's evaluation of | |
| 2 | Ms. Bassilios's request. | |
| 3 | 54.The City painted a section of the | Def. Answer, ¶ 25:20-24 (Exh. J, Dkt. |
| 4 | curb in front of Ms. Bassilios's home | 13), ; Def. Response to RFA, 22:1-2; |
| 5 | green. | 23:18-19 (Exh. DD) |
| 6 | 55.The color green does not reserve | Torrance Municipal Code § 61.6.15(d) |
| 7 | the parking space for people with | |
| 8 | disabled parking placards. | |
| 9 | 56.On Sundays, legal holidays, and | "Green shall mean no standing or |
| 10 | the 14-hour period between 6:00 p.m. | parking for a period of time longer than |
| 11 | and 8:00 a.m. of any other day, there | twenty (20) minutes at any time |
| 12 | are no special restrictions on parking | between 8:00 a.m. and 6:00 p.m. of any |
| 13 | spaces marked with a green curb. | day except Sundays and legal holidays." |
| 14 | | Torrance Municipal Code § 61.6.15(d) |
| 15 | 57.Over 2/3, or 68%, of the time, | Mastin Decl. ¶ 89 |
| 16 | there are no restrictions on the parking | |
| 17 | in front of Ms. Bassilios's home. It is as | |
| 18 | if the curb had no markings at all during | |
| 19 | those periods. | |
| 20 | 58.Ms. Bassilios is at work during | Bassilios Decl. ¶ 28 |
| 21 | most of the day. | |
| 22 | 59.On evenings, weekends, and | Bassilios Decl. ¶ 28-30 |
| 23 | holidays, when she is off from work, | |
| 24 | she would like to be able to do things | |
| 25 | independently like get her hair done, get | |
| 26 | her oil changed, or go grocery | |
| 27 | shopping. | |
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| 1 | 60. Even when Ms. Bassilios wishes | Bassilios Decl. ¶ 30 |
| 2 | to come and go during the times that a | |
| 3 | twenty-minute parking restriction | |
| 4 | applies to people without disabled | |
| 5 | parking placards, she is often unable to | |
| 6 | utilize the space because it is occupied | |
| 7 | by a vehicle not displaying a disabled | |
| 8 | parking placard. | |
| 9 | 61. Ms. Bassilios notified the City a | Defendant Answer ¶ 39:17-19 (Exh. J, |
| 10 | number of times through her attorney | Dkt. 13); Berk Decl., ¶ 8-14, Exh. B and |
| 11 | that the green zone did not work as an | C to Berk Decl. |
| 12 | accommodation for her disability and | |
| 13 | that she needed a parking space | |
| 14 | designated for people with disabilities. | |
| 15 | 62. The City continued to deny Ms. | November 27, 2013 E-mail from |
| 16 | Bassilios's request for a parking space | Patrick Sullivan to Andrew Berk, |
| 17 | designated for people with disabilities, | CITY-000230, Berk Decl., ¶ 14, Exh. E |
| 18 | stating that they were "unable to find | to Berk Decl. |
| 19 | any regulations that describe the | |
| 20 | dimensions, maximum slope, painting, | |
| 21 | signage, and safe path of travel | |
| 22 | requirements for accessible on-street | |
| 23 | parking spaces" or "any design | |
| 24 | standards including, but not limited to, | |
| 25 | painting, signage, maximum slope, and | |
| 26 | ramp requirements for the curb, gutter, | |
| 27 | and sidewalk adjacent to accessible on- | |
| 28 | street parking." | |

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| 1 | 63.The cost of designating a space | Mastin Decl. ¶ 52 |
| 2 | for people with disabled parking | |
| 3 | placards is roughly \$2,205 (\$500 | |
| 4 | materials cost for sign, sign-post, and | |
| 5 | paint, and 20 man-hours at \$80 per | |
| 6 | hour, plus 5% added in recognition that | |
| 7 | there are contingencies in construction). | |
| 8 | 64.The public right-of-way extends | Mastin Decl. ¶ 65 |
| 9 | fully fifteen feet from the curb at the | |
| 10 | street onto the parkway. | |
| 11 | 65.As a result, the City is free to | Mastin Decl. ¶ 67 |
| 12 | install an accessible space equipped | |
| 13 | with a curb ramp or an access aisle. | |
| 14 | 66.The City could feasibly do both | Mastin Decl. ¶ 68-69, Exhibit J to |
| 15 | at the site at a cost of approximately | Mastin Decl. |
| 16 | \$10,000 to \$25,000. | |
| 17 | 67.The extent of the public-right-of | Mastin Decl. ¶ 65 |
| 18 | way allows any conceivable | |
| 19 | configuration of accessible space the | |
| 20 | City could desire. | |
| 21 | 68.If it wished, through a fairly | Mastin Decl. ¶ 63, Exhibit E to Mastin |
| 22 | simple and straightforward modification | Decl. |
| 23 | the City could provide a level parking | |
| 24 | space by adding an asphalt overlay in | |
| 25 | the street and replacing the curb along | |
| 26 | the property line. | |
| 27 | 69.The City has sufficient right-of- | Mastin Decl. ¶ 70, Exhibit I to Mastin |
| 28 | way that it could even stripe the street | Decl. |

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| 1 | to permit angled parking, thereby | |
| 2 | increasing the total number of spaces | |
| 3 | available and allowing the City to easily | |
| 4 | install an access aisle. | |
| 5 | 70.The City has denied all requests | Defendant's Response to Request for |
| 6 | to designate parking spaces for people | Admission, 5:13 (Exh. DD) |
| 7 | with disabled parking placards in | |
| 8 | residential areas since at least 1999. | |
| 9 | 71.There are no on-street parking | Defendant's Response to Interrogatory, |
| 10 | spaces designated for people with | 4:1-3 |
| 11 | disabled parking placards in the entire | |
| 12 | City of Torrance. | |
| 13 | 72.The City sent letters to various | September 16, 1998 letter from Helene |
| 14 | members of the public in which it stated | Buchman to Fred Nickel CITY-005290, |
| 15 | "As a general policy, the City of | attached as Exhibit K to Declaration of |
| 16 | Torrance does not designate handicap | Autumn Elliott; November 6, 2000 |
| 17 | parking on public streets." | letter from Ted Semaan to Martha |
| 18 | | Locke CITY-005748, attached as |
| 19 | | Exhibit L to Declaration of Autumn |
| 20 | | Elliott; June 5, 2001 letter from Ted |
| 21 | | Semaan to Edith Fournier CITY- |
| 22 | | 005732, attached as Exhibit M to |
| 23 | | Declaration of Autumn Elliott; June 12, |
| 24 | | 2001 letter from Ted Semaan to Raelyn |
| 25 | | Morgan CITY-005749, attached as |
| 26 | | Exhibit N to Declaration of Autumn |
| 27 | | Elliott; November 8, 2001letter from |
| 28 | | Sepideh Sedadi to First United |

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| 1 | Methodist Church CITY-005284, |
| 2 | attached as Exhibit O to Declaration of |
| 3 | Autumn Elliott; November 26, 2001 |
| 4 | letter from Ted Semaan to First United |
| 5 | Methodist Church CITY-005730, |
| 6 | attached as Exhibit P to Declaration of |
| 7 | Autumn Elliott; April 9, 2002 Letter |
| 8 | from Ted Semaan to Mary Ann Dibb |
| 9 | CITY-005725, attached as Exhibit Q to |
| 10 | Declaration of Autumn Elliott; |
| 11 | September 29, 2004 letter from Ted |
| 12 | Semaan to Ralph Woodard CITY- |
| 13 | 005834, attached as Exhibit R to |
| 14 | Declaration of Autumn Elliott; |
| 15 | December 29, 2004 letter from Ted |
| 16 | Semaan to Earl Kuroyama CITY- |
| 17 | 005746, attached as Exhibit S to |
| 18 | Declaration of Autumn Elliott; February |
| 19 | 25, 2013 letter from William Kamimura |
| 20 | to Marsha Dear CITY-005017, attached |
| 21 | as Exhibit T to Declaration of Autumn |
| 22 | Elliott; same statement but “matter” |
| 23 | instead of “policy,” January 12, 2000 |
| 24 | email from Ted Semaan to Kathy Reilly |
| 25 | CITY-005278, attached as Exhibit U to |
| 26 | Declaration of Autumn Elliott; |
| 27 | December 6, 2012 letter from William |
| 28 | Kamimura to Tiffany Vakharia CITY- |

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| 1 | | 005027, attached as Exhibit V to |
| 2 | | Declaration of Autumn Elliott; February |
| 3 | | 25, 2013 letter from William Kamimura |
| 4 | | to Cyrus Knopp PRA-000110, attached |
| 5 | | as Exhibit W to Declaration of Autumn |
| 6 | | Elliott; September 30, 2013 letter from |
| 7 | | William Kamimura to Rita Harjala |
| 8 | | PRA-000123, attached as Exhibit X to |
| 9 | | Declaration of Autumn Elliott; also: |
| 10 | | “The City of Torrance currently does |
| 11 | | not have a policy of designating |
| 12 | | disabled parking on our public streets,” |
| 13 | | July 6, 1999 Letter from Mayor Dee |
| 14 | | Hardison to Fred Nickel CITY-005283, |
| 15 | | attached as Exhibit Y to Declaration of |
| 16 | | Autumn Elliott |
| 17 | 73.Ted Semaan, [explain who he is], | Semaan Depo. 89:8-16 (Exh. E) |
| 18 | admitted that the statement “As a | |
| 19 | general policy, the City of Torrance | |
| 20 | does not designate handicap parking on | |
| 21 | public streets,” was “accurate in the | |
| 22 | sense of the sentence that we use in our | |
| 23 | correspondence. And in this case, yes, | |
| 24 | that was accurate for the response.” | |
| 25 | 74.Notations in the City’s own | “Informed Harold that it is not City |
| 26 | records contain numerous references to | policy to install HCP/blue curb,” PRA- |
| 27 | a policy of denying requests to | 000049, attached as Exh. Z to |
| 28 | | Declaration of Autumn Elliott; |

| | | |
|----|---|---|
| 1 | designate on-street parking spaces for | "10/1/13: Semaan spoke with Ms. |
| 2 | people with disabilities. | Ahulii and indicated do not do blue |
| 3 | | curb," PRA000130, attached as Exh. |
| 4 | | AA to Declaration of Autumn Elliott; |
| 5 | | "4/19/11: responded via email citing |
| 6 | | that the City does not install |
| 7 | | handicapped markings along city |
| 8 | | streets," CITY-001719, attached as |
| 9 | | Exh. BB to Declaration of Autumn |
| 10 | | Elliott; "3/29/11: Request Denied. |
| 11 | | Informed Tom that we do not install |
| 12 | | handicapped parking on street curb in |
| 13 | | front of a residence, since we do not |
| 14 | | have the ability to meet all of the ADA |
| 15 | | requirements. Furthermore, we cannot |
| 16 | | assign a handicapped space to any one |
| 17 | | person." CITY-001718, attached as |
| 18 | | Exh. CC to Declaration of Autumn |
| 19 | | Elliott |
| 20 | 75.The City "is a municipal | Def. Answer to First Amended |
| 21 | corporation organized under the laws of | Complaint ("Def. Answer") (Exh. J, |
| 22 | the State of California." | Docket No. 13), ¶ 11, 1-3, ¶ 12, ll. 6-9, |
| 23 | | ¶ 17: ll. 8-12 |
| 24 | 76.The City receives federal | Answer of Defendant City of Torrance |
| 25 | funding, including Community | to Plaintiff's First Amended Complaint |
| 26 | Development Block Grant (CDBG) | (Docket No. 13), ¶¶ 16-17; Deposition |
| 27 | funding. | of Linda Cessna at 15:1-25, 16:13-22 |
| 28 | | |

| | | |
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| 1 | | (attached to Declaration of Autumn M. Elliott, Exh. C) . |
| 2 | | |
| 3 | 77.The City has received CDGB | Cessna Depo. 35:16-20 (Exh. C) |
| 4 | federal funds since at least 2011. | |
| 5 | 78.The City allocates CDBG | Cessna Depo. 36:3-12; 37:7-12 (Exh. |
| 6 | funding to various projects. | C) |
| 7 | 79.The City Department overseeing | Cessna Depo. 37:7-12 (Exh. C) |
| 8 | a project manages the CDBG funds for | |
| 9 | that project. | |
| 10 | 80.All projects the City designates | Cessna Depo. 46: 13-15 (Exh. C) |
| 11 | CDBG funds for are within the City of | |
| 12 | Torrance. | |
| 13 | 81.All departments involved in | Cessna Depo. 46: 16-18 (Exh. C) |
| 14 | CDBG-funded projects are City | |
| 15 | departments. | |
| 16 | 82.The City's Department of Public | Defendant City of Torrance's Response |
| 17 | Works receives federal funding, | to Plaintiff's First Set of Requests for |
| 18 | including CDBG funds. | Admission, 18:25, 19:1-12 (Exh. DD); |
| 19 | | Bilezarian 30(b)(6) Depo. at 249- |
| 20 | | 250:24-12; 250-251:25-3; 252:10-11; |
| 21 | | 252-253:23-2; 256:1-9; 255:5-14. (Exh. |
| 22 | | B) |
| 23 | 83.The City uses federal funds, | Cessna Depo. 16:15-22; 19:19-24; 20:6- |
| 24 | including CDBG funds, for streets, | 9; 20:23-25, 21:1-11; 25:4-12, 15-17; |
| 25 | curbs, and/or sidewalks. | 26, 11-21; p. 27, 6-16; 28: 12-19; p. 29: |
| 26 | | 19-25; 32:4-6; 38:24-25; 39:1 (Exh. C); |
| 27 | | Bilezarian 30(b)(6) Depo. 249-250:24- |
| 28 | | |

| | | |
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| 1 | | 12; 250-251:25-3; 251:14-17; 252:2-4; |
| 2 | | 252:10-16; 255:5-14 (Exh. B) |
| 3 | 84.The City Department of Public | Cessna Depo. 38:24-25; 39:1 (Exh. C); |
| 4 | Works uses federal funds, including | Bilezarian Depo. 249-250:24-12; 250- |
| 5 | CDGB federal funds, for streets, | 251:25-3; 251:14-17; 252:2-4; 252:10- |
| 6 | sidewalks, and curbs. | 16; 255:5-14 (Exh. B) |
| 7 | 85.The City uses federal funds, | Cessna Depo. 27:11-25; 28:1-5; p. 39: |
| 8 | including CDBG funds, for disability | 4-8 (Exh. C); Bilezarian Depo. 249- |
| 9 | accessibility of sidewalks, streets, and | 250:24-12; 250-251:25-3; 251:14-17; |
| 10 | curbs. | 252:2-4; 252:10-16; 253-254: 24-2 |
| 11 | | (Exh. B) |
| 12 | 86.The City Department of Public | Cessna Depo. 39:4-8 (Exh. C); |
| 13 | Works uses federal funds, including | Bilezarian Depo. 249-250:24-12; 250- |
| 14 | CDBG funds, for at least some projects | 251:25-3; 251:14-17; 252:2-4; 252:10- |
| 15 | for disability accessibility of streets, | 16; 253-254: 24-2 (Exh. B) |
| 16 | sidewalks, and curbs. | |
| 17 | 87.The Department of Public Works | Cessna Depo., 27: 8-16 (Exh. C) |
| 18 | determines where in the City CDBG | |
| 19 | federal funds are used for sidewalks. | |
| 20 | 88.The City receives state funds. | Answer of Defendant City of Torrance |
| 21 | | to Plaintiff's First Amended Complaint |
| 22 | | (Exh. J, Docket No. 13) ¶ 14 |
| 23 | 89.The City Department of Public | Defendant City of Torrance's Response |
| 24 | Works receives state funds. | to Plaintiff's First Set of Requests for |
| 25 | | Admission 19:13-26; Bilezarian |
| 26 | | 30(b)(6) Depo. 257:4-12; 257:17-19; |
| 27 | | 258:7-9; 259-260:19-8; 260-261:24-5; |
| 28 | | 267:4-17 (Exh. B) |

| | | |
|----|---|--|
| 1 | 90.The City Department of Public | Bilezarian 30(b)(6) Depo., 267-268:18- |
| 2 | Works has used state funding for street | 4 (Exh. B) |
| 3 | rehabilitation. | |
| 4 | 91.The City’s overall budget for FY | “Comprehensive Annual Financial |
| 5 | 2014 was \$ \$283.3 million and the | Report, Fiscal Year Ended June 30, |
| 6 | Public Works Department budget was | 2014,” attached as Exh. 43 to Bilezerian |
| 7 | \$29.7 million. | 30(b)(6) Depo (Exh. B) |
| 8 | 92.Ms. Bassilios has significant | Bassilios Decl. at ¶ 6-14; Dr. Chun |
| 9 | limitations in walking due to, among | Decl. at ¶12-26 |
| 10 | other things, spastic diplegia, a | |
| 11 | condition common to individuals with | |
| 12 | cerebral palsy, and a pin surgically | |
| 13 | placed in her foot following a stress | |
| 14 | fracture. | |
| 15 | 93.These conditions make it difficult | Bassilios Decl. at ¶ 6-14; Dr. Chun |
| 16 | for her to walk longer distances, to | Decl. at ¶12-26 |
| 17 | carry items as she walks, to climb a | |
| 18 | flight of stairs, and to walk on a sloped | |
| 19 | or uneven surface. | |
| 20 | 94.The spots nearest her home are | Bassilios Decl. at ¶ 16-20 |
| 21 | frequently taken and she has to park so | |
| 22 | far away that it is difficult for her to | |
| 23 | walk from her car to her home. | |
| 24 | 95.This circumstance prevents Ms. | Bassilios Decl. at ¶ 20-24 |
| 25 | Bassilios from having independent | |
| 26 | access to the community outside her | |
| 27 | home, as she must either depend on | |
| 28 | others to drive her to destinations or | |

1 park her car for her, experience
2 unnecessary pain and risk of falling
3 when she must park far from her home,
4 or forego going outside her home at all.

5
6 Based on the foregoing Uncontroverted Facts, the following Conclusions of
7 Law should be made:

8 **CONCLUSIONS OF LAW**

- 9 1. The City of Torrance is a “public entity” as defined by 42 U.S.C. § 12131(A).
10 2. The City and its Public Works Department are covered by Section 504 due to
11 their receipt of “federal financial assistance” as defined by 29 U.S.C. §
12 794(a).
13 3. The City and its Public Works Department are covered by Cal. Gov’t Code §
14 11135 due to their receipt of “financial assistance from the state” as defined
15 by Cal. Gov’t Code § 11135(a).
16 4. Katie Bassilios is a qualified individual with a disability as defined by 42
17 U.S.C. § 12132 and 29 U.S.C. § 794(a), and has a “disability” as defined by
18 42 U.S.C. § 12102(1), 29 U.S.C. § 705(20)(B), Cal. Gov’t Code §
19 11135(c)(1), and Cal. Gov’t Code § 12926(m).
20 5. Maintaining on-street parking is a normal function of a city and without a
21 doubt something that a City does, and the on-street parking in front of Ms.
22 Bassilios’s home is therefore covered by the Americans with Disabilities Act.
23 Defendant’s Third Affirmative Defense should be dismissed.
24 6. As a result of Defendant’s failure to provide a reasonable accommodation,
25 Katie Bassilios was excluded from participation in, denied the benefits of a
26 public entity’s services, programs, or activities, or was otherwise
27 discriminated against by Defendant; and such exclusion, denial of benefits, or
28 discrimination was by reason of her disability.

7. There is no material evidence to support Defendant's First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-first, Twenty-second, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-seventh, Twenty-eighth, Twenty-ninth, Thirtieth, Thirty-second, Thirty-fourth, Thirty-fifth, Thirty-sixth, Thirty-seventh, and Thirty-eighth Affirmative Defenses.

DATED: August 21, 2015

Respectfully submitted,

/s/ Autumn Elliott

AUTUMN ELLIOTT SBN #230043
ANDREW N. BERK SBN #248386
DISABILITY RIGHTS CALIFORNIA
350 S. Bixel Ave., Suite 290
Los Angeles, CA 90010-2512
Telephone: (213) 213-8000
Facsimile: (213) 213-8001
Autumn.Elliott@disabilityrightsca.org
Andrew.Berk@disabilityrightsca.org

/s/ Dara Schur

DARA SCHUR #98638
DISABILITY RIGHTS CALIFORNIA
1330 Broadway, Suite 500
Oakland, CA 94612
Telephone: (510) 267-1200
Facsimile: (510) 267-1201
Dara.Schur@disabilityrightsca.org

Attorneys for Plaintiffs